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Consumer Assistance Advisory Committee

AGENDA ITEM

☒ For Possible Action
☐ Information Only

Date: June 8, 2012
Item Number: V
Title: Navigators and Brokers in the Exchange

Summary¹

Establishing an effective, efficient and sustainable consumer assistance and outreach program will be one of the more important activities undertaken by the Silver State Health Insurance Exchange (Exchange). Enrolling a large number of individuals and families, which represent a broad and diverse population, will be critical to attracting and retaining commercial health insurers to participate on the Exchange, and will be necessary for the long-term success of the Exchange.

With over 550,000 uninsured residents in Nevada, many of whom will be eligible for coverage through the expansion of Medicaid or subsidized health insurance through the Exchange, the Exchange will likely need to engage a number of individuals and entities to help potential enrollees learn about the new health coverage programs and select a health plan that best meets their needs.

As Nevada works on developing the infrastructure, resources and policies to establish its Exchange, a number of important decisions will need to be made regarding the structure and focus of the consumer assistance and outreach program. This report reviews the potential roles of Navigators and Brokers, within the broader context of a comprehensive consumer engagement strategy.

¹ Much of the information provided in this report was provided by RLCarey Consulting.

The final Exchange rule, CMS-9989-F, issued on March 27, 2012 by the U.S. Department of Health and Human Services (HHS)² lays out a number of requirements and expectations for the Exchange's Navigator program. The rule also clarifies, to a certain extent, the distinction between Navigators and Brokers. Attachment A included excerpts from the final regulation regarding consumer assistance tools and programs of an exchange (45 CFR 155.205), navigator program standards (45 CFR 155.210) and ability of states to permit agents and brokers to assist qualified individuals, qualified employers or qualified employees enrolling in Qualified Health Plans (QHP) (45 CFR 155.220).

This report provides recommendations regarding the following items as they pertain to Navigators and Brokers:

- a. Definition
- b. Roles and responsibilities
- c. Licensing, Certification and Training
- d. Compensation structure
- e. Conflicts of interest and relationship with insurers
- f. Performance metrics

Report

Recommendation: Staff recommends the Committee submit to the Board the following plan for Navigators and Brokers:

Silver State Health Insurance Exchange Navigators Defined

Navigators will consist of public and private entities that will communicate with, educate and enroll consumers in Qualified Health Plans (QHPs) through the multiple enrollment methods provided by the Exchange. Navigators and Brokers will work in concert to ensure all individuals have access to health insurance coverage provided as a result of the Affordable Care Act (ACA). Navigators' duties and responsibilities will fall into one or both of the following classifications:

- Education
- Enrollment

While the responsibilities and certification requirements are different for the two classifications of Navigator, an individual or entity may serve in both capacities if they are certified to provide both services.

Roles and Responsibilities of Education Navigators

Education Navigators will be responsible for outreach and education for the currently uninsured or underinsured populations and will present to those populations the options available under the

² <http://cciio.cms.gov/resources/regulations/index.html#hie>

ACA. This outreach and education will include information regarding the ACA as it relates to the Exchange including but not limited to:

- Program Eligibility- Rules to purchase subsidized insurance through the Exchange and eligibility for Medicaid, CHIP, Medicare or other programs;
- Methods of Purchase- Different means available to purchase and enroll in a QHP: Exchange web portal, Exchange call-in center, walk-in centers, kiosks located in community service centers and state agencies, mail in applications and fax applications;
- Reasons to Purchase- Education on the benefits of health insurance and what health insurance provides for the individual;
- Definitions of health insurance terms- For Example, aiding the consumer to understand the difference between a premium, deductible and co-insurance;
- Dispute Resolution- Aiding the consumer to find avenues to resolve disputes with carriers, such as directing them to the DOI and GOVCHA, and referring enrollment disputes to the Exchange;
- Cultural Diversity- Providing culturally and linguistically appropriate health insurance education to Hispanics, Asians, American Indians and other groups; and
- Group Outreach Opportunities- Outreach to consumers typically in group settings, focusing on broad topics related to health insurance and coverage options.

Roles and Responsibilities of Enrollment Navigators

Enrollment Navigators will provide consumers with a physical walk-in location and the tools necessary to assist the individual learn about, and enroll in QHPs. If the Enrollment Navigator does not have a physical walk-in location, the Navigator must be able to go to the enrollee.

Enrollment Navigators will be public or private entities that can perform the following functions:

- Access to physical locations- Provide access to brick and mortar locations or mobile computing centers that will facilitate access to the Exchange's web portal, call center, or FAX line or provide the ability to print and mail hard copies of enrollment documents to the Exchange processing center;
- Answer enrollment questions- Address questions regarding access to any of the enrollment methods and the submission of enrollment documentation to the Exchange;
- Explain eligibility criteria- Explain the eligibility criteria for purchasing insurance through the Exchange, enrolling in Medicaid and other State programs designed to provide medical coverage;
- Provide definitions of health insurance terms for consumers engaged in the enrollment process- For example, aiding the consumer to understand the difference between a premium, deductible and co-insurance;
- Provide documentation- Provide the consumer with documentation regarding the available plans, enrollment letters stating the date coverage will start, etc.;
- Dispute Resolution- Aiding the consumer to find avenues to resolve disputes with carriers, such as directing them to the DOI and GOVCHA, and referring enrollment disputes to the Exchange; and

- Furnish unbiased explanations of coverage provided on the web portal- The enrollment Navigators must not offer any opinion or editorial on the QHPs in the Exchange. Information provided by Navigators must be limited to that information available on the web portal.

Licensing, Certification and Training of Navigators

Each of the two classifications of Navigators will require certification by State agencies including but not limited to the Exchange and the DOI. The requirements for certification and yearly recertification will differ between the two classifications.

Education Navigators

Education Navigators will be certified through training provided by the Exchange, and consist of a two day (sixteen hour) initial training course about the Exchange and health care coverage provided as a result of the ACA. After the completion of the initial training, all Education Navigators will complete a test to demonstrate what they have learned.

Recertification of Education Navigators will consist of two days of update training per year, one in the spring and one in the fall. Education Navigators need to attend these training sessions and complete an annual re-certification test to maintain their active Education Navigator status and funding source.

Enrollment Navigators

Enrollment Navigators will be certified by two state agencies. Enrollment Navigators will be licensed and certified through the DOI as Insurance Consultants. Enrollment Navigators will also be certified by training provided by the Exchange. This training will consist of an initial three day (24 hour) initial training course. Two days of this training session will be dedicated to topics relating to the Exchange and health coverage provided as a result of the ACA. The third day of training will be devoted to a computer lab session. This session will focus on training enrollment Navigators to use the Exchange web portal and completing a test to demonstrate what they have learned.

Recertification of enrollment Navigators will consist of two days of update training per year, one in the spring and one in the fall. Enrollment Navigators need to attend these trainings, complete an annual re-certification test, and prove that they are in good standing with the DOI to maintain their active Navigator status and funding source.

Enrollment Navigators must furnish a complete set of fingerprints and undergo a criminal history background check.

HHS indicates that it will release model Navigator training standards.

Navigator Compensation

All Navigators participating in the Exchange will receive funding through a competitive grant process. Potential Navigators will submit competitive grant applications to the exchange through a biennial request. The grant applications will be divided into the two classifications for Navigators (Enrollment and Education). The Exchange will review and award grants to qualified Navigator groups throughout the state of Nevada. The funding or grant allocations will be distributed to the Navigator classifications as follows:

- Education Navigators will be awarded grant funds for the purpose of conducting education and outreach events, presentation materials and possibly staff salaries.
- Enrollment Navigators will be awarded computer resources or funds to purchase computer resources, if necessary, to facilitate enrolling consumers in coverage through the Exchange, and funds to cover certification costs with DOI.

Navigators and conflicts of interest

Navigators cannot have conflicts of interest, financial or otherwise, and will need to comply with the Exchange's privacy and security standards. Specifically, Navigators cannot receive any consideration, financial or otherwise, from carriers. The final rule allows the Exchange to set the standards. However, the preamble to the rules suggests that the conflict of interest standards include, but not be limited to, the following:

“financial considerations; nonfinancial considerations; the impact of a family member's employment or activities with other potentially conflicted entities; Navigator disclosures regarding existing financial and non-financial relationships with other entities; Exchange monitoring of Navigator-based enrollment patterns; legal and financial recourses for consumers that have been adversely affected by a Navigator with a conflict of interest; and applicable civil and criminal penalties for Navigators that act in a manner inconsistent with the conflict of interest standards set forth by the Exchange.”³

HHS indicates that it will release model conflict of interest standards.

Roles and Responsibilities of Brokers in the Exchange

Brokers will assist qualified individuals, qualified employers and qualified employees with enrolment in QHPs in much the same manner as Enrollment Navigators. Brokers currently provide individuals and employers with information regarding health insurance and assistance in enrollment in health plans. While Brokers will be urged to provide only information that can be found on the web portal, Brokers are permitted to provide information based on their experience with a QHP, in much the same manner as is done today. Brokers that enroll individuals in the Exchange should also understand the basics of the premium tax credits, the QHPs and where to send individuals who require social services such as Medicaid, SNAP and TANF.

³ Preamble to the final rule, Federal Register, Vol. 77, No. 59, Tuesday, March 27, 2012, Rules and Regulations, page 18331.

The final rule allows the Exchange to determine the role that Brokers play within the Exchange. The rule allows Brokers to help individuals apply for premium tax credits through the Exchange and enroll in coverage. The Exchange will need to determine how best to use Brokers to help consumers, including both individuals and small employers, access coverage through the Exchange.

Brokers in Nevada play an important and influential role in the distribution of health insurance. Both individual consumers and businesses rely on Brokers to sort through their health insurance options, provide health plan recommendations, and serve as their agents throughout the year in dealings with insurance companies. This value provided by a Broker is measured by the commissions paid to Brokers by insurance carriers. If the service provided by Brokers was not valuable, Brokers would not receive commissions from the carriers. Furthermore, if Brokers are not allowed to service the Exchange market, it is likely they would drive business away from the Exchange toward plans offered by carriers for which they receive compensation. This would decrease enrollment making sustainability more difficult.

Finally, it should be noted that a large portion of uninsured Nevadans do not have insurance because it is not affordable. The premium tax credit will make health insurance much more affordable. Brokers are currently positioned to assist these new entrants into the health insurance market.

Licensing, Certification and Training of Brokers

The final rule requires Brokers to register with the Exchange, receive training on QHP options and other publicly subsidized insurance programs, and comply with the Exchange's privacy and security standards.

Nevada's Division of Insurance (DOI) has statutory responsibility for licensing and overseeing Brokers. The Division requires applicants to take and successfully pass the state insurance exam in the line(s) of authority for which the applicant is applying (e.g., health, property and casualty, life). Individuals applying for a resident license with the DOI must furnish a complete set of fingerprints and undergo a criminal history background check.

Staff will coordinate with the DOI to create training and licensure requirements that are in compliance with the ACA.

Broker Compensation

Brokers will receive compensation from carriers for enrollment in the Exchange, in accordance with the Brokers' contracts with the carriers. The enrollment system will accept a Broker ID and transmit that data to the carrier so that the Broker can receive the commission.

Brokers are contracted with insurers to enroll consumers in the insurers' plans. Rates paid by insurers to Brokers vary depending on the insurer, whether the Broker is enrolling an individual or group plan, and the size of the group plan.

There is concern that as a carrier raises its commissions, Brokers will enroll more individuals in that carrier's plans, regardless of whether that carrier offers the best product. One way to mitigate this adverse selection is to introduce a fixed commission for enrollment in all QHPs. However, if commissions for enrollment within the Exchange are fixed at a point that is too low, carriers could raise the commissions they offer to steer enrollment away from the Exchange. If commissions are too high, insurance coverage will be less affordable. Because carriers offer different rates, carriers will have commissions that are higher or lower than the fixed Exchange rate which will cause a situation in which enrollment is steered away from the Exchange.

It is important to note that the current state of Broker commissions has evolved over the years to its current state and continues to evolve as market conditions change. Introducing a fixed commission in the market introduces an additional complexity that would need to be monitored and adjusted regularly by Exchange staff.

Additionally, in its strategic plan, the Board declared one of its values to be, "...creating a business friendly environment for the simple purchase of health insurance."

Performance Metrics

Staff will monitor available enrollment metrics so that staff can provide reasonable recommendations for future improvements to the system. Brokers and Enrollment Navigators will enter a code into the web portal when assisting a consumer with enrollment. This code will help staff review enrollment trends and monitor post enrollment surveys. Enrollment trends can be analyzed to determine if any Navigators or Brokers are steering business toward a specific QHP.

Summary

Table 1 provides information regarding the applicability of various requirements as they pertain to Education Navigators, Enrollment Navigators and Brokers.

Table 1: Program requirements for Education Navigators, Enrollment Navigators and Brokers

	Education Navigators	Enrollment Navigators	Brokers
Information to be Provided to Consumer			
Eligibility information for coverage through the Exchange, premium tax credits or publicly subsidized programs such as Medicaid, CHIP, Medicare, etc.	X	X	X
Methods to purchase and enroll in a QHP: Exchange web portal, Exchange call-in center, walk-in centers, kiosks located in community service centers, mail in applications and fax applications.	X	X	X
Education on the benefits of health insurance and what health insurance provides for the individual.	X		
Definitions of health insurance terms, for example, aiding the consumer to understand the difference between a premium, deductible and co-insurance.	X	X	X
Aiding the consumer to find avenues available to resolve disputes with carriers or enrollment such as DOI, GOVCHA and the Welfare dispute center.	X	X	X
Providing culturally and linguistically appropriate health insurance education to groups in Nevada including but not limited to Hispanics, Asians and American Indians.	X	X	
Outreach to consumers typically in group settings, focusing on broad topics related to health insurance and coverage options.	X		
Compensation			
Funded by competitive grants from the Exchange	X	X	
Funded by commissions paid by the consumer or employer through the premium paid to the carrier			X
Licensing, Certification and Training			
Licensed and regulated by Nevada DOI		X	X
Certified by the Exchange	X	X	
Criminal background check required		X	X
Training provided by Nevada DOI			X
Training provided by the Exchange	X	X	
Enrollment			
Enroll consumers in plans offered in the exchange.		X	X
Enroll consumers in plans offered outside of the exchange.			X

	Education Navigators	Enrollment Navigators	Brokers
Provide unbiased explanation of coverage provided on the web portal. The enrollment Navigators must not offer any opinion or editorial on the QHPs in the Exchange.		X	
Assist in submission of enrollment documentation to the Exchange.		X	X
Provide the consumer with documentation stating the date coverage will start and the appropriate agencies to contact if the consumer encounters problems with enrollment, coverage or payment.		X	X

Recommendation:

Approve the Navigator and Broker participation plan as presented.

Excerpts from Final Rule CMS-9989-F
Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers

§155.205 Consumer assistance tools and programs of an Exchange.

- (a) Call center. The Exchange must provide for operation of a toll-free call center that addresses the needs of consumers requesting assistance and meets the requirements outlined in paragraphs (c)(1), (c)(2)(i), and (c)(3) of this section.
- (b) Internet Web site. The Exchange must maintain an up-to-date Internet Web site that meets the requirements outlined in paragraph (c) of this section and:
 - (1) Provides standardized comparative information on each available QHP, including at a minimum:
 - (i) Premium and cost-sharing information;
 - (ii) The summary of benefits and coverage established under section 2715 of the PHS Act;
 - (iii) Identification of whether the QHP is a bronze, silver, gold, or platinum level plan as defined by section 1302(d) of the Affordable Care Act, or a catastrophic plan as defined by section 1302(e) of the Affordable Care Act;
 - (iv) The results of the enrollee satisfaction survey, as described in section 1311(c)(4) of the Affordable Care Act;
 - (v) Quality ratings assigned in accordance with section 1311(c)(3) of the Affordable Care Act;
 - (vi) Medical loss ratio information as reported to HHS in accordance with 45 CFR part 158;
 - (vii) Transparency of coverage measures reported to the Exchange during certification in accordance with §155.1040; and
 - (viii) The provider directory made available to the Exchange in accordance with §156.230.
 - (2) Publishes the following financial information:
 - (i) The average costs of licensing required by the Exchange;
 - (ii) Any regulatory fees required by the Exchange;
 - (iii) Any payments required by the Exchange in addition to fees under paragraphs (b)(2)(i) and (ii) of this section;
 - (iv) Administrative costs of such Exchange; and
 - (v) Monies lost to waste, fraud, and abuse.
 - (3) Provides applicants with information about Navigators as described in §155.210 and other consumer assistance services, including the toll-free telephone number of the Exchange call center required in paragraph (a) of this section.
 - (4) Allows for an eligibility determination to be made in accordance with subpart D of this part.
 - (5) Allows a qualified individual to select a QHP in accordance with subpart E of this part.

- (6) Makes available by electronic means a calculator to facilitate the comparison of available QHPs after the application of any advance payments of the premium tax credit and any cost-sharing reductions.
- (c) Accessibility. Information must be provided to applicants and enrollees in plain language and in a manner that is accessible and timely to--
 - (1) Individuals living with disabilities including accessible Web sites and the provision of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.
 - (2) Individuals who are limited English proficient through the provision of language services at no cost to the individual, including
 - (i) Oral interpretation;
 - (ii) Written translations; and
 - (iii) Taglines in non-English languages indicating the availability of language services.
 - (3) Inform individuals of the availability of the services described in paragraphs (c)(1) and (2) of this section and how to access such services.
- (d) Consumer assistance. The Exchange must have a consumer assistance function that meets the standards in paragraph (c) of this section, including the Navigator program described in §155.210, and must refer consumers to consumer assistance programs in the State when available and appropriate.
- (e) Outreach and education. The Exchange must conduct outreach and education activities that meet the standards in paragraph (c) of this section to educate consumers about the Exchange and insurance affordability programs to encourage participation.

§155.210 Navigator program standards.

- (a) General Requirements. The Exchange must establish a Navigator program consistent with this section through which it awards grants to eligible public or private entities or individuals described in paragraph (c) of this section.
- (b) Standards. The Exchange must develop and publicly disseminate –
 - (1) A set of standards, to be met by all entities and individuals to be awarded Navigator grants, designed to prevent, minimize and mitigate any conflicts of interest, financial or otherwise, that may exist for an entity or individuals to be awarded a Navigator grant and to ensure that all entities and individuals carrying out Navigator functions have appropriate integrity; and
 - (2) A set of training standards, to be met by all entities and individuals carrying out Navigator functions under the terms of a Navigator grant, to ensure expertise in:
 - (i) The needs of underserved and vulnerable populations;
 - (ii) Eligibility and enrollment rules and procedures;
 - (iii) The range of QHP options and insurance affordability programs; and,
 - (iv) The privacy and security standards applicable under §155.260.
- (c) Entities and individuals eligible to be a Navigator.
 - (1) To receive a Navigator grant, an entity or individual must –

- (i) Be capable of carrying out at least those duties described in paragraph (e) of this section;
 - (ii) Demonstrate to the Exchange that the entity has existing relationships, or could readily establish relationships, with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be eligible for enrollment in a QHP;
 - (iii) Meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable;
 - (iv) Not have a conflict of interest during the term as Navigator; and,
 - (v) Comply with the privacy and security standards adopted by the Exchange as required in accordance with §155.260.
- (2) The Exchange must include an entity as described in paragraph (c)(2)(i) of this section and an entity from at least one of the other following categories for receipt of a Navigator grant:
 - (i) Community and consumer-focused nonprofit groups;
 - (ii) Trade, industry, and professional associations;
 - (iii) Commercial fishing industry organizations, ranching and farming organizations;
 - (iv) Chambers of commerce;
 - (v) Unions;
 - (vi) Resource partners of the Small Business Administration;
 - (vii) Licensed agents and brokers; and
 - (viii) Other public or private entities or individuals that meet the requirements of this section. Other entities may include but are not limited to Indian tribes, tribal organizations, urban Indian organizations, and State or local human service agencies.
- (d) Prohibition on Navigator conduct. The Exchange must ensure that a Navigator must not –
 - (1) Be a health insurance issuer;
 - (2) Be a subsidiary of a health insurance issuer;
 - (3) Be an association that includes members of, or lobbies on behalf of, the insurance industry; or,
 - (4) Receive any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any individuals or employees in a QHP or a non-QHP.
- (e) Duties of a Navigator. An entity that serves as a Navigator must carry out at least the following duties:
 - (1) Maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Exchange;
 - (2) Provide information and services in a fair, accurate and impartial manner. Such information must acknowledge other health programs;
 - (3) Facilitate selection of a QHP;
 - (4) Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the PHS Act, or any other appropriate State agency or agencies, for any enrollee with a grievance,

- complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage; and
- (5) Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange, including individuals with limited English proficiency, and ensure accessibility and usability of Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.
- (f) Funding for Navigator grants. Funding for Navigator grants may not be from Federal funds received by the State to establish the Exchange.

§155.220 Ability of States to permit agents and brokers to assist qualified individuals, qualified employers, or qualified employees enrolling in QHPs.

- (a) General rule. A State may permit agents and brokers to –
- (1) Enroll individuals, employers or employees in any QHP in the individual or small group market as soon as the QHP is offered through an Exchange in the State;
 - (2) Subject to paragraphs (c), (d), and (e) of this section, enroll qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange; and
 - (3) Subject to paragraphs (d) and (e) of this section, assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs.
- (b) Web site disclosure. The Exchange may elect to provide information regarding licensed agents and brokers on its website for the convenience of consumers seeking insurance through that Exchange.
- (c) Enrollment through the Exchange. A qualified individual may be enrolled in a QHP through the Exchange with the assistance of an agent or broker if —
- (1) The agent or broker ensures the applicant's completion of an eligibility verification and enrollment application through the Exchange Web site as described in §155.405;
 - (2) The Exchange transmits enrollment information to the QHP issuer as provided in §155.400(a) to allow the issuer to effectuate enrollment of qualified individuals in the QHP.
 - (3) When an Internet website of the agent or broker is used to complete the QHP selection, at a minimum the Internet Web site must:
 - (i) Meet all standards for disclosure and display of QHP information contained in §155.205(b)(1) and (c);
 - (ii) Provide consumers the ability to view all QHPs offered through the Exchange;
 - (iii) Not provide financial incentives, such as rebates or giveaways;
 - (iv) Display all QHP data provided by the Exchange;
 - (v) Maintain audit trails and records in an electronic format for a minimum of ten years; and
 - (vi) Provide consumers with the ability to withdraw from the process and use the Exchange Web site described in §155.205(b) instead at any time.

(d) Agreement. An agent or broker that enrolls qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange or assists individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs must comply with the terms of an agreement between the agent or broker and the Exchange under which the agent or broker at least:

- (1) Registers with the Exchange in advance of assisting qualified individuals enrolling in QHPs through the Exchange;
- (2) Receives training in the range of QHP options and insurance affordability programs; and
- (3) Complies with the Exchange's privacy and security standards adopted consistent with §155.260.

(e) Compliance with State law. An agent or broker that enrolls qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange or assists individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs must comply with applicable State law related to agents and brokers, including applicable State law related to confidentiality and conflicts of interest.